

a mesh layer comprised of intersecting mesh strands, the mesh strands having a width of from about 0.005 inches to about 0.060 inches and a depth of from about 0.005 inches to about 0.060 inches and being comprised of metallocene linear low density polyethylene.

29. (New) The mesh reinforced breathable film of claim 28 further comprising an adhesive between said breathable film layer and said mesh layer.

30. (New) The mesh reinforced breathable film of claim 28 wherein said breathable film layer and said mesh layer are laminated together.

31. (New) The mesh reinforced breathable film of claim 28 wherein said breathable film layer and said mesh layer are joined through coextrusion.

#### REMARKS

The Office Action requires affirmation of the election of Group I, claims 1-5 and 21. The election of the Group I claims and the cancellation of claims 6-20 are hereby affirmed.

Claims 1-4 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,929,303 to Sheth ("Sheth"). Claims 1-4 have been cancelled without prejudice.

Claims 5 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sheth. Claim 5 has been cancelled without prejudice and the subject matter of claim 5 has been incorporated into new independent claim 22.

The subject matters of independent claims 21 and 22 are distinct from the subject matter disclosed in Sheth. While Sheth, throughout, is directed to a combination of a breathable film with a fabric laminated thereto, the claims 21 and 22 are directed to a breathable film having a mesh layer rather than a fabric. Though Sheth discloses that its laminated fabrics have "a suitably open mesh," for example at column 6, line 45 of Sheth, the mesh of the present invention is a polymer structure distinct from the fabric types disclosed in Sheth.

While Sheth discloses that one non-woven fabric for use in Sheth is "of 3-5 mils," no description of mesh strand widths is found in Sheth, and no reference to mesh strand widths is cited in the Office Action. In contrast, each of claims 21 and 22 requires that mesh strands have a width of from about 0.005 inches to about 0.060 inches and a depth of from about

0.005 inches to about 0.060 inches. The mesh type required in the present invention does not result only from the choice of a value of a result-effective variable involving only routine skill in the art. Rather, the choices of materials as claimed in claims 21 and 22 represent a significant departure from the use of a fabric as described in Sheth. Further, Sheth does not teach or suggest that mesh strand width is a consideration in the choice of material and the Office Action contains no citation showing mesh strand width as a factor in material construction. No preferred mesh strand widths are disclosed in Sheth. Claims 21 and 22 are believed to be in condition for allowance, and action toward that end is earnestly solicited.

Dependent claims 23, 24, and 26 are believed to be in condition for allowance for at least the reason that they dependent upon claim 22, an allowable base claim.

Dependent claim 25 is believed to be in condition for allowance for at least the reason that it is dependent upon claim 22, an allowable base claim. Further, Sheth does not disclose that an adhesive may be placed between a mesh layer and a breathable layer.

Dependent claim 27 is believed to be in condition for allowance for at least the reason that it is dependent upon claim 22, an allowable base claim. Further, Sheth does not disclose that a breathable layer and a mesh layer may be joined together via coextrusion.

Independent claim 28 is believed to be in condition for allowance for at least the same reasons as independent claims 21 and 22. Independent claim 28 is further believed to be in condition for allowance because Sheth does not teach or suggest that metallocene linear low density polyethylene could be used either as a breathable film material or as a mesh material.

Dependent claims 29-31 are believed to be in condition for allowance at least as being dependent upon independent claim 28, an allowable base claim. Further, claims 29 and 31 are believed to be in condition for allowance for the reasons discussed above in connection with, respectively, claims 25 and 27.

All pending claims are believed to be in condition for allowance and action toward that end is earnestly solicited.

Attached hereto is a clean copy of the revised specification paragraphs captioned "Clean Specification Paragraphs After Entry of Amendment and Reply to office Action Mailed August 2, 2002" and the pending claims after entry of the present amendment captioned "Pending Claims After Entry of Amendment and Reply to Office Action Mailed August 2, 2002."

Included is a check in the amount of \$110.00 along with a Petition for One-Month Extension of Time for response within one month of the three-month due date. No additional

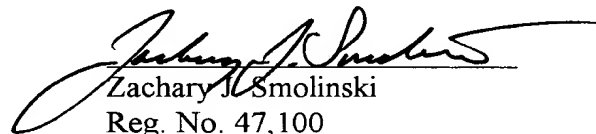
**Customer No: 30223.**

fees are believed to be required. The Commissioner is authorized to deduct any additional fees required (except for payment of the issue fee) from or to credit any overpayment to Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47097-00066. If there are any matters which the Examiner believes may be settled over the telephone, the Examiner is invited to call the Applicants' attorney at the number listed below.

Respectfully submitted,

December 2, 2002

Date



Zachary J. Smolinski

Reg. No. 47,100

Jenkins & Gilchrist, P.C.

225 West Washington Street, Suite 2600

Chicago, IL 60606-3418

(312) 425-8522

Attorneys for Applicant

**Customer No: 30223**

Patent Application Serial No. 09/878,515, filed June 11, 2001

**CLEAN SPECIFICATION PARAGRAPHS AFTER ENTRY OF AMENDMENT  
AND REPLY TO OFFICE ACTION MAILED AUGUST 2, 2002**

**In the Title:**

Please replace the paragraph beginning at page 2, line 1 with the following rewritten paragraph:

**MESH REINFORCED BREATHABLE FILM**